



California Fair Political Practices Commission

September 14, 1989

Jeanette Roache
Director of Community Affairs
Building Industry Political Action Committee
6336 Greenwich Drive, Suite A
San Diego, CA 92122

Re: Your Request for Informal Assistance
Our File No. I-89-456

Dear Ms. Roache:

This is in response to your letter requesting advice on behalf of the Building Industry Political Action Committee regarding disclosure responsibilities pursuant to the Political Reform Act (the "Act").^{1/} The Commission does not provide advice to third parties concerning another person's duties under the Act. (Regulation 18329(b)(8)(B), copy enclosed.) Thus, we cannot advise you with respect to the Sierra Club's reporting responsibilities. However, we can provide the following general guidelines concerning campaign disclosure.^{2/}

DISCUSSION

Initially, we assume that your question concerns the campaign disclosure obligations of an organization which qualifies as a committee pursuant to Section 82013. Each campaign statement filed by the committee shall contain the information set forth in Section 84211. Section 84211 requires the disclosure of contributions and expenditures during the fiscal year. A copy of the Information Manual on Campaign Disclosure Provisions of the Political Reform Act is enclosed to help you determine the type of organization that qualifies as a committee and the committee's obligations pursuant to the Act.

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to Regulations are to Title 2, Division 6 of the California Code of Regulations.

^{2/} Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

Expenditures made by the committee at the behest of a candidate or another committee, such as mailers and phone banks, must be reported as contributions to the candidate. (Section 82015.) The same activity performed by the committee independently must be reported as independent expenditures because they are communications which expressly advocate the election or defeat of a clearly identified candidate. (Section 82031.) There is an exception, however, for costs incurred for communications which expressly advocate the nomination, election or defeat of a clearly identified candidate, or the qualification, passage or defeat of a clearly identified measure by:

(C) A regularly published newsletter or regularly published periodical, other than those specified in paragraph (b)(4)(A), whose circulation is limited to an organization's members, employees, shareholders, other affiliated individuals and those who request or purchase the publication. This paragraph applies only to the costs regularly incurred in publishing and distributing the newsletter or periodical. If additional costs are incurred because the newsletter or periodical is issued on other than its regular schedule, expanded in circulation, or substantially altered in style, size or format, the additional costs are expenditures.

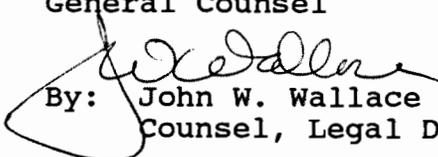
Regulation 18225(b)(4)(C).

Accordingly, an organization which communicates with its members and other affiliated individuals only through a regularly published newsletter has not engaged in reportable activity under the Act.

I hope this general guidance is helpful. If you believe a particular organization is violating the campaign disclosure provisions of the Act, we encourage you to file a complaint with our Enforcement Division. A complaint form is enclosed. The telephone number for the Enforcement Division is (916) 322-6441.

Sincerely,

Kathryn E. Donovan
General Counsel


By: John W. Wallace
Counsel, Legal Division

KED:JWW:plh

Enclosures

Building Industry Political Action Committee

6336 Greenwich Drive, Suite A
San Diego, California 92122

Chairman

Bill Miller

Secretary/Treasurer

Bob Morris

Board of Governors

Larry Clemens

Bill Davidson

Julie Dillon

Jim Hansen

Mike Helmer

Bill Miller

Pat Miller

Stan Swartz

Harrison Waite

Diamond Donors

BCE Development

Baxter Blasting Company

Brehm Communities

M.J. Brock & Sons, Inc

Church Engineering, Inc

The Fieldstone Company

First American Title

Jerry Gravo Construction, Inc

Great American Develop. Company

The Helmer Company

Home Capital Corp

Leisure Technology, Inc

The Lusk Companies

The William Lyon Company

McKellar Development of La Jolla

McMillin Development, Inc

Newland California

Seastar, Inc

Shea Homes

Ticor Title Insurance

Watt Homes/San Diego, Inc

Gold Donors

A.G. Spanos Construction, Inc

Archer Roofing, Inc

B & W Precast Construction, Inc

Barrett Fence Company

Cinti & Associates

John B. Clark, Jr

Concrete Concepts, Inc

Don Ed Russell, Inc

Dick-Con

Forte Development Company

HCH Partners

Geucon, Inc

Hillman Properties West, Inc

J.M. Peters Company, Inc

Michael P. Kahn, R.E. Consultant

The Koll Company

Masson & Associates, Inc

R.B. McComic, Inc

Pardee Construction Company

Piedmont Construction Company

Silverwood Development, Inc

Spring Mountain Escrow Corp

Harry L. Summers, Inc

Techbilt Construction Corp

Watt Development, Inc

DATE: July 20, 1989

TO: John Larson
FPPC

FROM: Jeanette Roache
Director of Community Affairs

SUBJECT: Campaign Law Questions

Your response to the following questions would greatly be appreciated.

1. If an organization or company were to contact its members or employees reminding them to vote on election day specifying which candidate or candidates the organization or company is supporting:
 - a) would the organization or company be required to report expenses (to FPPC or local filing authority) incurred in notifying its members or employees...ie if done through mailer or phone bank?
 - b) could this be considered an independent or in-kind expenditure?

These questions have arisen and confusion has been expressed on how organizations such as the Sierra Club sends out mailers for instance, stating they endorse candidates X, Y & Z and yet they never file in-kind or other expense reports with campaign reporting authorities.

I look forward to your prompt attention addressing these concerns.

Thank you.

FPPC
 Aug 1
 8:07 AM '89
 A. Multi-Unit Gutter
 Apee Civil Engineering
 Bay Cabinet, Inc
 Benchmark Landscape Constr., Inc
 Business Real Estate Brokerage Co
 Cal-American Communities, Inc
 Coast Plumbing & Mechanical, Inc
 Creative Touch Interiors
 J.L. Davidson Company, Inc
 Developers Marketing Assoc., Inc
 DuVivier Company, Inc
 4 S Partners
 GeoSols, Inc
 Geotechnical Exploration, Inc
 Gham Drywall Corp
 William Grubangh & Sons
 Home Centers, Inc
 Housing Opportunities, Inc
 Hmi for Tile, Inc
 I. R. Hubbard Constr. Co., Inc
 ICA Mortgage Corp
 Illahee Corp
 Inco Realty Services, Inc
 Interior Specialists, Inc
 International Savings Bank
 JBF & Associates
 Kaufman & Broad
 David Kemp & Associates, Inc
 The Lightfoot Planning Group
 Lillick & McHose
 Lomas Group, Inc
 The McIntire Group
 Mele Amanca Architects, AIA
 Morrison Homes
 Motivational Systems, Inc
 New Continental Tile & Marble, Inc
 Newport National Corp
 Odmark Development Assoc
 P&D Technologies
 Pacific Triad, Inc
 Patrick Henry Development
 Pountney & Associates, Inc
 Reynolds Development Co., Inc
 S B & O, Inc
 San Diego Fence Company, Inc
 Sector, Inc
 Seltzer Caplan Wilkins & McMahon
 SGPA Planning & Architecture
 W.F. Snow, Inc
 Storz, Ziegans & Metzger, Inc
 Sunburst Homes Corp
 Surecraft Supply, Inc
 Sylmar Company
 TCS Governmental Consulting, Inc
 Ted Whitt Plumbing Co., Inc
 Terra Industries, Inc
 Turnni & Brink
 UDC Homes
 VTN Southwest, Inc
 Vadose, Inc
 Weingarten-Siegel-Fletcher, Inc
 K.L. Wessel Construction Co., Inc
 West Village of Singing Hills
 Western Marble Mfg. Company
 Western Mutual Mortgage, Inc
 Westminster Associates, Inc
 Woodcrest Development of SD, Inc
 Worley, Schwartz, Garfield & Rice